

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
M2Z NETWORKS, INC.	)	WT Docket No. 07-16
)	
Application for License and Authority to	)	File No. _____
Provide National Broadband Radio Service)	
In the 2155-2175 MHz Band)	
)	
Petition for Forbearance Under	)	WT Docket No. 07-30
47 U.S.C. § 160(c) Concerning Application of)	
Sections 1.945(b) and (c))	
Of the Commission's Rules and Other)	
Regulatory and Statutory Provisions)	
)	
and)	
)	
NEXTWAVE BROADBAND INC.	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Provide Nationwide Broadband Service)	
In the 2155-2175 MHz Band)	
)	
and)	
)	
OPEN RANGE COMMUNICATIONS, INC.	)	WT Docket No. _____
)	
Application for License to Construct and	)	File No. _____
Operate Facilities for the Provision of Rural)	
Broadband Radio Services in the 2155-2175)	
MHz Band)	
)	
and)	
)	
COMMNET WIRELESS, LLC	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Construct and Operate a System to Provide)	
Nationwide Broadband Service in the)	
2155-2175 MHz Band)	
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and)	

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TABLE OF CONTENTS

I.	INTRODUCTION	2
II.	THE M2Z MOTION SHOULD BE DISMISSED OR DENIED.....	3
A.	M2Z’s Motion is Procedurally Defective	3
B.	M2Z’s General Analytic Approach is Flawed and Inconsistent with the Act	3
1.	The Open Range Application Does Commit to Providing Free Service.....	5
2.	Open Range Proposes to Serve Rural Communities. Many of Which are Presently Underserved.....	6
3.	Open Range has not Declined to Contribute to Universal Service	6
4.	Open Range will Offer a Filtering Feature where there is Market Demand	7
5.	Open Range has Committed to Priority Service to Public Safety Communications	7
6.	M2Z’s Spectrum Usage Fee Argument is Hollow	8
7.	The Open Range Application Will Provide Substantial Economic Stimulus in Rural Areas	9
8.	Open Range Will Comply with the Commission’s Interference Regulations for This Service.....	9
9.	Open Range’s Proposal is Spectrally Efficient Within the Communities Open Range Proposes to Serve	10
10.	Open Range’s Financial Showing is More Than Adequate	11
11.	Open Range will Comply with Regulatory Obligations Established by the Commission and will Accept the Regulatory Status Established by the Commission	12
C.	M2Z’s Specific Objections to the Open Range Application are Inaccurate or Irrelevant.....	13
1.	Open Range Requested a Waiver of Any Commission Rules Necessary to Allow the Processing of the Open Range Application	13
2.	Open Range Will Provide Service in the 2155-2175 MHz Band to the Extent the Commission Determines This Spectrum Should be Made Available	14
3.	Open Range Intends to Serve Rural Americans	14
D.	The Open Range Application and the M2Z Application Appear to be Mutually Exclusive	15
E.	M2Z’s Section 7 Argument is Fatally Flawed	16

SUMMARY

Open Range Communications, Inc. (“Open Range”) has submitted an application to provide broadband service to millions of rural Americans living in communities that are presently unserved or underserved by broadband providers. In a defensive and reactionary gesture, M2Z Networks, Inc. (“M2Z”) has filed a motion asking the Commission to dismiss the Open Range application without even considering the benefits that Open Range’s service would provide. The basis for M2Z’s motion is essentially that any application that does not offer features identical to the M2Z application is defective, and further that the Commission should dismiss competing applications without further substantive consideration. As a threshold matter, M2Z’s motion is not timely filed, and the Commission should dismiss it as procedurally defective.

Furthermore, in evaluating the substance of the M2Z motion, many of the arguments M2Z advances concerning Open Range’s application are inaccurate or irrelevant, including the arguments that Open Range has not specified how it will comply with regulations that the Commission has not yet established for this service. Open Range has assembled a thoughtful and realistic business model that will enable it to provide service to rural Americans, and has submitted its application seeking spectrum licenses so that it may begin providing those services. M2Z’s argument, namely that any application that is not the mirror image of M2Z’s application is defective and subject to dismissal, is supported neither by law nor policy, and the Commission should dismiss M2Z’s motion.

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Construct and Operate a System to Provide)	
Nationwide Broadband Service in the)	
2155-2175 MHz Band)	
)	
and)	
)	
NETFREEUS, LLC)	WT Docket No. _____
)	

Application for License and Authority to	)	File No. _____
Provide Wireless Public Broadband Services in)	
the 2155-2175 MHz Band)	
)	
and)	
)	
MCELROY ELECTRONICS CORPORATION	)	WT Docket No. _____
)	
Application for a Nationwide 2155-2175 MHz	)	File No. _____
Band Authorization)	
)	
and)	
)	
TOWERSTREAM CORPORATION	)	WT Docket No. _____
)	
Application for a Nationwide 2155-2175 MHz	)	File No. _____
Band Authorization)	

To: Chief, Wireless Telecommunications Bureau

**OPPOSITION OF OPEN RANGE COMMUNICATIONS, INC.
TO CONSOLIDATED MOTION OF M2Z NETWORKS, INC.
TO DISMISS ALTERNATIVE PROPOSALS**

Pursuant to Section 1.45 of the rules of the Federal Communications Commission (“Commission”), Open Range Communications, Inc. (“Open Range”) hereby files its Opposition to the Consolidated Motion of M2Z Networks, Inc. (“M2Z”) to Dismiss Alternative Proposals in the above-captioned proceedings (the “M2Z Motion”).¹

I. INTRODUCTION

On January 31, 2007, the Commission released a Public Notice inviting comment on an application filed by M2Z for a license to construct a wireless broadband network in the 2155-2175 MHz band.² The Commission noted that “additional applications for spectrum in this band

¹ M2Z Networks, Inc. Consolidated Motion of M2Z Networks, Inc. to Dismiss Alternative Proposals, WT Docket No. 07-16; 07-30 (filed March 26, 2007) (the “M2Z Motion”).

² See Wireless Telecommunications Bureau Announces that M2Z Networks, Inc.’s Application for License and Authority to Provide a National Broadband Radio Service in the 2155-2175

may be filed while the M2Z application is pending.”³ Responding to the Commission’s Public Notice, Open Range filed on March 1, 2007, the “Open Range Application for License to Construct and Operate Facilities for the Provision of Rural Broadband Radio Services in the 2155-2175 Band” (the “Open Range Application”). Other applicants filed as well. M2Z now seeks dismissal without further consideration of all applications filed in response to the Commission Public Notice. For the reasons stated below the M2Z motion should be dismissed or denied.

11. THE M2Z MOTION SHOULD BE DISMISSED OR DENIED.

A. M2Z’s Motion is Procedurally Defective

As a threshold matter, the M2Z Motion, while purportedly filed under Section 1.41 of the Commission’s rules governing informal requests for Commission action, is in substance a petition to deny the Open Range Application. With respect to the applications filed by Open Range and other applicants, the Commission has not yet accepted the applications for filing, nor has it established a pleading cycle for those applications.⁴ As such, the M2Z Motion is not timely, and should be dismissed.

B. M2Z’s General Analytic Approach is Flawed and Inconsistent with the Act.

At bottom, the approach followed by M2Z in its Motion is to set forth criteria consisting of the asserted benefits of the M2Z application, and then to claim that any application that does

MHz Band is Accepted for Filing, *Public Notice*, WT Docket No. 07-16, DA 07-492 (Jan. 31, 2007).

³ *Id.* at 2.

⁴ See Wireless Telecommunications Bureau Sets Pleading Cycle for Application by M2Z Networks, Inc. to Be Licensed in the 2155-2175 MHz Band, *Public Notice*, WT Docket No. 07-16, DA 07-987 (March 9, 2007).

not meet those criteria must be dismissed without further Commission review. According to M2Z, “[n]o application to offer services at 2155-2175 MHz should be *seriously entertained* unless it meets all of the public interest standards set by the M2Z Application...”⁵ The M2Z Motion simply repeats characteristics of the M2Z proposal and effectively asserts that these are the sole criteria by which the Commission must evaluate other applications, regardless of the features of those applications. This is a breathtakingly presumptuous and fundamentally flawed approach. M2Z would have the Commission find that because an applicant may choose a different approach to its service than that chosen by M2Z its application should be dismissed at the processing stage without further consideration.

Apart from being unfair and irrational, this approach is fundamentally inconsistent with settled precedent regarding the Commission’s statutory obligations where there are mutually exclusive radio applications. Under the *Ashbacker* doctrine, the Commission may not simply select one application and grant it without substantively considering other mutually exclusive applications.⁶

M2Z simply ignores many salient features of the Open Range Application in favor of the self-determined characteristics of M2Z’s own application⁷ which M2Z has elevated to the status

⁵ See M2Z Motion at 14 (emphasis added).

⁶ *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945); see also 49 U.S.C. § 309(b). Although M2Z claims it will serve the entire nation, this is not quite correct. Open Range assumes the M2Z Application to mean that M2Z plans to serve 95% of the US population (not area) although M2Z does not identify the specific geographic areas and population it will serve. M2Z Motion at 21; M2Z Application at 23. Open Range proposes to serve, in five years, approximately 7% of the population residing in the rural communities identified in its application. Open Range Application at 3. Thus, it is actually possible that Open Range’s proposal will serve largely areas that M2Z does not propose to serve at all.

⁷ M2Z Networks, Inc., Application for License and Authority to Provide National Broadband Radio Service in the 2155-2175 MHz Band, WT Docket No. 07-16; 07-30 (filed May 5, 2006) (the “M2Z Application”).

of gating criteria the Commission must apply in considering competing applications. In fact, Open Range submits that none of these self-determined principles is necessarily appropriate in judging Open Range's application or, for that matter, M2Z's application and, in any event, none of these principles should be considered dispositive. Nevertheless, in an effort to ensure that the record before the Commission is accurate, Open Range will address M2Z's arguments regarding the alleged inadequacies of the Open Range Application.

1. The Open Range Application Does Commit to Providing Free Service.

Nothing in the Act requires or even promotes the offering of free service'. In fact, where there is no demonstrated need for free service, offering service for a reasonable fee that consumers are willing to pay helps ensure that spectrum is being put to its highest and best use and promotes the efficient allocation of economic resources. Notwithstanding its claims, M2Z likely intends to "upsell" superior services to consumers; else there is little possibility that M2Z could ever hope to put forth an economically sound business plan.

Ultimately, then, charging a fee for service does not distinguish the Open Range Application from the M2Z Application and, more fundamentally, charging a fee for service is in no way inconsistent with the public interest. That said, as acknowledged by M2Z, Open Range does intend to offer free internet access to schools K-12 in the communities Open Range will serve. Additionally Open Range has committed to offer free internet access to medical hospital facilities for telemedicine applications in the communities Open Range proposes to serve.⁹

⁸ Indeed in certain limited instances where common carriers do provide free service they must document that action and report it to the Commission. See 47 CFR § 11.42(d).

⁹ Open Range Application at 4-5; see *also* M2Z Motion at 19.

2. Open Range Proposes to Serve Rural Communities, Many of Which are Presently Underserved.

M2Z asserts that Open Range does not commit to providing national service. This is an accurate observation, however, it represents a strength rather a flaw in the Open Range proposal. Open Range proposes to serve rural communities, many of which presently do not have a broadband service provider.¹⁰ Far from offering merely another broadband option to urban consumers who already have access to a number of broadband providers, as is the case with the M2Z Application, Open Range proposes to focus on rural communities and regional centers, many of which are presently underserved.

As described in the Open Range Application, in many rural communities broadband service is either unavailable or far less developed than in urban communities. Demand for broadband service in rural communities, however, is high. Open Range proposes a simple and convenient service offering that will dramatically increase the availability and utility of broadband service in the underserved communities Open Range proposes to target. Open Range fails to see how this approach can plausibly be seen as failing to serve the public interest.

3. Open Range has not Declined to Contribute to Universal Service.

According to M2Z, the Open Range Application is flawed because “Open Range has not offered any commitment to pay into USF and has not declined to accept USF funds.”” The Commission has not established service rules for providers operating in the 2155-2175 MHz band, including the universal service obligations will apply to such providers. When the Commission does establish rules for this service Open Range will, of course, comply with those rules. In the meantime, it is plainly no criticism of the Open Range Application that Open Range

¹⁰ Open Range Application at 2.

¹¹ M2Z Motion at 26.

has not mirrored M2Z's preemptive declarations of its universal service commitments before the Commission has even had the opportunity to consider what universal service obligations should apply to this service. Furthermore, as noted in the Open Range Application, Open Range's commitment to offer free service to schools and medical hospital facilities which "will help relieve pressure on the Universal Service Fund (USF)."¹²

4. Open Range will Offer a Filtering Feature where there is Market Demand.

Again transforming a proposed feature of its application into a gating criterion for other applicants, M2Z states that Open Range has offered no filtering proposal in its application. Open Range intends to respond to the marketplace in the communities it plans to serve. Where there is demand for a filtering feature, or other features for that matter, Open Range will address that demand in the service it offers. Moreover, according to the M2Z Application, M2Z's mandatory filtering feature will apply only to M2Z's free broadband offering, not necessarily to its premium offerings and in any event will be removed upon request.¹³ Thus, M2Z criticizes Open Range for failing to specify a feature which will be provided by any applicant and which is functionally indistinguishable from the parental controls already offered by most Internet service providers.

5. Open Range has Committed to Priority Service to Public Safety Communications.

According to M2Z, Open Range "does not elaborate" on how it will prioritize communications for public safety operations in the event of an emergency. Open Range has committed to provide "[p]riority one services to first responders in the event of a public safety

¹² Open Range Application at 5.

¹³ M2Z Application at 24.

emergency.”¹⁴ M2Z faults Open Range for not “elaborating” on this plain and straightforward commitment. No such elaboration is necessary in the Application. Priority of communications is a long established principle in the communications industry and is a matter which has been subject to FCC regulation and implemented by licenses for many years in connection with the national EAS system.” Beyond that Open Range will afford priority to public safety entities in emergency situations and it will consult with the public safety entities in the communities it serves to ensure that the priority scheme meets their needs.

6. M2Z’s Spectrum Usage Fee Argument is Hollow.

M2Z faults the Open Range Application for failing to identify “spectrum usage fees or other means by which the Commission can meet its statutory obligation to recover a portion of the value of this spectrum. This is a remarkable argument. M2Z has essentially offered to purchase access to spectrum completely outside the process required by Congress under Section 309(j) of the Act and for a price likely to be far less than the value of the spectrum. M2Z then criticizes other applicants for failing to match M2Z’s “commitment”.

Open Range will, of course, pay whatever fees the Commission establishes for providers operating in this spectrum. Rather than attempting to preempt such a determination by the Commission by self-selecting a limited “usage fee,” Open Range proposes to follow the directives established by the Commission following the Commission’s evaluation of the appropriate service rules. Moreover, M2Z’s commitment to pay its “usage fee” rings hollow in light of the Commission’s statutory obligation under Section 309(j) of the Act to assign spectrum

¹⁴ Open Range Application at 5.

¹⁵ See 47 CFR § 11.1, et seq.

through a system of competitive bidding where there are mutually exclusive applications.¹⁶ If M2Z is truly interested in paying an appropriate amount to the U.S. Treasury for access to this spectrum, it is an open question why M2Z would not be content to participate in an auction for such access as required by the Act.

7. The Open Range Application Will Provide Substantial Economic Stimulus in Rural Areas.

The Open Range Application will generate an economic benefit to rural communities, both by providing broadband access to underserved communities and via Open Range's commitment to hire and train local employees within the communities it will serve.¹⁷ Open Range believes the impact of expanding broadband service to rural Americans, many of whom currently have no access to a broadband service provider, will be significant, as will be the impact of hiring local employees in these rural communities. Open Range has conducted a thorough market analysis to validate the demand for its services including a market study of over 24,000 potential users in 47 states.” Open Range has prepared a careful and thoughtfully developed business model centered around an aggressive yet attainable build-out schedule, and Open Range believes the potential economic impact of its plan is manifest for rural Americans.”

8. Open Range Will Comply with the Commission's Interference Regulations for This Service

M2Z's argument regarding interference protection is perplexing. According to M2Z, “[t]o the extent that [other applications] fail to propose compliance with any technical

¹⁶ 47 U.S.C. § 309(j)(1).

¹⁷ Open Range Application at 5.

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 11-12.

requirements or interference standards, the Alternative Proposals are not only deficient as compared to M2Z's NBRs, they are also defective and subject to dismissal as incomplete."²⁰

This argument is misplaced. Open Range has made a plain and straightforward commitment not to cause harmful interference to other licensees.²¹ It is unclear what else Open Range should say on this point at this time. Compliance with the Commission's eventual rules will require an analysis of the RF environment in the specific communities to be served as Open Range's network is deployed. As M2Z does not provide a site-specific RF analysis for any location in its proposed service area which itself consists of an undefined 95% of the population of the U.S. The M2Z Application is no less "defective" on this point and itself would be subject to dismissal if M2Z were correct.

9. Open Range's Proposal is Spectrally Efficient Within the Communities Open Range Proposes to Serve.

M2Z's assertion that "[w]here there is a potential for a nationwide license to be awarded to an entity that will serve the entire American public, award of that license to an entity that plans to serve a narrow geographic area will only result in underutilization" is a hollow aphorism for which M2Z does not even attempt to offer support.²² In fact, the Open Range Application is no less spectrally efficient than M2Z's, it merely proposes to operate in a more limited geographic area much of which may lie in areas M2Z does not even intend to serve. If authorized by the Commission, M2Z or another provider could certainly operate in those areas not served by Open Range.

²⁰ M2Z Motion at 40.

²¹ Open Range Application at 4; 10 ("Open Range will avoid harmful interference and will comply with all applicable FCC emission requirements).

²² M2Z Motion at 43-44.

The point-to-multipoint network technology that will be deployed in this band will employ base stations with defined service areas. These base stations will be operated along with additional such stations to provide service to a defined community or area. As a practical matter, any national network can be broken into these smaller geographic areas and analyzed at a more granular level – but focusing on a particular geographic area does nothing to make use of the spectrum in other areas more or less efficient. Open Range proposes to use cutting-edge WiMAX technology to provide highly efficient service to the communities Open Range will serve.²³

10. Open Range’s Financial Showing is More Than Adequate.

Open Range has made a fulsome economic showing that, in addition to demonstrating the viability of Open Range’s proposal, actually calls into question the seriousness of M2Z’s financial preparation to provide the service M2Z claims it will provide. Open Range has developed a thoughtful, carefully-constructed business model centered around an achievable build-out schedule and based on thorough market research.²⁴ That business model suggests that Open Range will require \$420 million for the initial build-out to the communities Open Range plans to serve within the first five years of service. With this level of investment, Open Range proposes to serve 553 rural communities in 17 states, covering approximately 6.2 million Americans.²⁵ In contrast, M2Z claims to have “reasonable assurances from various committed sources that it will be able to obtain in excess of \$400 million to help construct and operate its

²³ Open Range Application at 10.

²⁴ *Id.* at 4; 11-12.

²⁵ *Id.* at 3.

network.”²⁶ With approximately the same level of funding as Open Range, M2Z proposes to serve approximately 285 million Americans, or 95 % of the U.S. population, within ten years.²⁷ In other words, M2Z proposes to serve a population more than 45 times greater than the population Open Range proposes to serve, yet M2Z claims to have “reasonable assurances from various committed sources” that it will have access to less funding than Open Range has estimated will be required for its build-out. Using the Open Range network as a baseline M2Z would require approximately \$19 billion to construct its national network – not the \$400 million it says it is “reasonably assured” to have. This is an extraordinary figure for a start-up company like M2Z.

In short the M2Z financial plan appears to be unsustainable. In contrast Open Range has developed a financial model, business plan and deployment schedule that will actually work in the real world. M2Z’s criticism of the financial qualifications of Open Range while M2Z’s own financial qualifications plainly fall so far short cannot be taken seriously.

11. Open Range will Comply with Regulatory Obligations Established by the Commission and will Accept the Regulatory Status Established by the Commission.

M2Z faults Open Range for not clarifying its regulatory status. M2Z’s critique boils down to an argument that the Open Range Application is flawed because Open Range has not announced its compliance with regulatory obligations that the Commission has yet to establish. Open Range will comply fully with the regulatory obligations the Commission determines are appropriate for this service. M2Z initially decided that the Commission should regulate it as a

²⁶ M2Z Application at 8.

²⁷ *Id.* at 23; M2Z Motion at 21.

CMRS carrier.²⁸ As M2Z acknowledges, subsequent to the filing of its application (and subsequent to the filing of the Open Range application), the Commission determined that wireless broadband internet access service would be classified as an information service, thus rendering M2Z's self-designation of its regulatory status irrelevant.²⁹ Open Range will conform to the regulatory status the FCC has established for broadband radio services.

C. M2Z's Specific Objections to the Open Range Application are Inaccurate or Irrelevant.

1. Open Range Requested a Waiver of Any Commission Rules Necessary to Allow the Processing of the Open Range Application.

In its application, Open Range requested a waiver of the Commission's rules to the extent necessary for the Commission to accept, process and grant its application.³⁰ Open Range recognized, and continues to recognize, that the Commission could well establish additional rules for service provided in the 2155-2175 MHz band.³¹ Notwithstanding M2Z's assertions, the ample public interest benefits outlined in the Open Range Application, including the substantial economic benefits that will result from Open Range's build-out, the provision of wireless broadband services to millions of rural Americans in communities that are presently underserved or not served at all, and a well considered sustainable business model that will actually make service available to consumers who need it, all represent a substantial public interest showing for

²⁸ M2Z Application at 32-33.

²⁹ M2Z Motion at 49, citing Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks, Declaratory Ruling, WT Docket No. 07-53, FCC 07-30 (rel. March 23, 2007).

³⁰ Open Range application at 1, n. 1

³¹ *Id.*

the waiver of any of the Commission's rules necessary to allow the acceptance, processing and ultimate grant of the Open Range Application.

2. Open Range Will Provide Service in the 2155-2175 MHz Band to the Extent the Commission Determines This Spectrum Should be Made Available.

The M2Z motion characterizes the Open Range Application as an “afterthought.” That is an unfair characterization. It is correct that Open Range has urged the Commission to make spectrum available in the 3650-3700 MHz band. However, as of this date, the Commission has yet to act in this regard. In order to move forward with its business plan and begin providing broadband services to millions of underserved consumers in rural America, Open Range has submitted its application to provide service using the 2155-2175 MHz band to the extent the Commission determines that this spectrum will be made available to provide such service. M2Z's implicit criticism of Open Range's demonstrated eagerness to take a necessary first step, namely obtaining access to spectrum, is misplaced. Open Range believes that it has a business model poised to successfully spread broadband services to rural Americans, and Open Range intends to pursue available spectrum opportunities to begin providing such service.

3. Open Range Intends to Serve Rural Americans

M2Z questions the “rural” character of the communities Open Range intends to serve. The M2Z criticism is misplaced. The Commission has not established service rules for the 2155-2175 MHz band, so there are no clear standards to apply in determining what the FCC would consider to be rural community with respect to the wireless broadband service contemplated by the Open Range Application. As shown clearly in its Application Open Range has focused its plan on serving the needs of rural Americans. In contrast the 5% of Americans that M2Z indicates it will *not* serve are almost certainly located in rural America.

D. The Open Range Application and the M2Z Application Appear to be Mutually Exclusive

As noted by M2Z, the Act requires the Commission “to avoid mutual exclusivity in application and licensing proceedings.”³² While true, this observation is in no way dispositive. Nothing in the Act requires the Commission to avoid mutual exclusivity by granting one application and simply dismissing the application of another otherwise qualified applicant. Indeed, the *Ashbacker* doctrine forbids the Commission from granting an application without considering mutually exclusive applications.³³

As noted above, it is possible that Open Range and M2Z may intend to serve primarily, or even exclusively, different service areas. Thus, it remains possible that the Open Range Application may, in fact, not be mutually exclusive with the M2Z Application, unlike the other applications filed in this proceeding. Open Range would be happy to work with M2Z and the Commission to determine if the applications are ultimately mutually exclusive. To do this M2Z will of course have to specify the areas that it actually intends to serve. In the meantime, however, M2Z may not “wish away” apparent mutual exclusivity through the dismissal of competing applications. The Act instructs the Commission to attempt to avoid mutual exclusivity where possible, not to simply dismiss mutually exclusive applications.

³² 47 U.S.C. § 309(j)(6)(E).

³³ *Ashbacker*, 326 U.S. 327.

E. M2Z's Section 7 Argument is Fatally Flawed.

M2Z asserts that Section 7 of the Act requires competing applicants to demonstrate that grant of the M2Z Application is inconsistent with the Public Interest.³⁴ As a threshold matter, Open Range did not petition to deny the M2Z Application as M2Z has acknowledged.³⁵ Thus, it is not clear that any Section 7 requirement that parties opposing a new technology or service bear the burden of proof even applies to the Open Range Application.

More fundamentally, as other parties in this proceeding have demonstrated, M2Z overplays its hand in its characterization of the Commission's obligations under Section 7.³⁶ Section 7 is a "broad statement of policy conferring substantial discretion on the Commission to determine how best to provide for new technologies and services," not an obligation that the Commission effectively undo the rest of the Act to proceed with the grant of any application that claims to offer a "new" technology or service.³⁷

Finally, Open Range proposes to deploy state of the art WiMAX technology in its rural markets. This technology will be new to the rural markets Open Range will serve and will be new to urban areas as well. Thus, any Section 7 considerations applicable to the M2Z application apply to the Open Range Application as well.

³⁴ M2Z Motion at 18.

³⁵ M2Z Networks, Inc., Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny and Alternative Proposals, WT Docket No. 07-16; 07-30 (filed March 26, 2007).

³⁶ See, e.g., Reply of CTIA – The Wireless Association, WT Docket No. 07-16; 07-30, 12-15 (filed April 3, 2007).

³⁷ *Alenco Comms. V. FCC*, 201 F.3d 608, 615 n.3 (5th Cir. 2000).

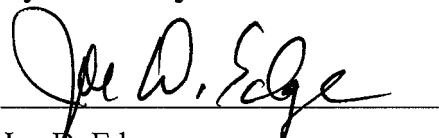
III. CONCLUSION

The Open Range Application should be accepted for filing and placed on public notice. Open Range's proposal will bring state of the art wireless broadband internet access service to millions of rural Americans who are currently unserved or underserved. Open Range has developed a reasonable and realistic approach for providing its service, and Open Range has made plain its intention to comply with all regulatory requirements established by the Commission. M2Z's Motion is not only premature, but it is also inaccurate and adopts a flawed approach to the evaluation of other applications. For the foregoing reasons, the Commission should dismiss or deny M2Z's Motion.

Respectfully Submitted

Open Range Communications, Inc.

By its attorney

A handwritten signature in black ink, appearing to read "Joe D. Edge", is written over a horizontal line.

Joe D. Edge
Drinker Biddle & Reath LLP
1500 K Street, N.W., Suite 1100
Washington, DC 20005-1209
Joe.Edge@dbr.com
202-842-8800
202-842-8465/66 (fax)

April 10, 2007

CERTIFICATE OF SERVICE

I, Patrick R. McFadden, an attorney in the law office of Drinker Biddle & Reath LLP, hereby certify that I have on this 10th day of April 2007, caused a copy of the foregoing Opposition to the Consolidated Motion of M2Z Networks, Inc. to Dismiss Alternative Proposals to be delivered by first-class mail to the following:

Milo Medin
Chairman
M2Z Networks, Inc.
2800 Sand Hill Road
Suite 150
Menlo Park, CA 94025

Uzoma C. Onyeije
Vice President, Regulatory Affairs
M2Z Networks, Inc.
2000 North 14th Street
Suite 600
Arlington, VA 22201

W. Kenneth Ferree
Erin L. Dozier
Christopher G. Tygh
Sheppard Mullin Richter & Hampton LLP
1300 I Street, N.W.
11th Floor East
Washington, DC 20005
Counsel for M2Z Networks, Inc.

Gregory W. Whiteaker
Donald L. Herman, Jr.
Bennet & Bennet, PLLC
10 G Street, NE
Suite 710
Washington, DC 20002
Counsel to TowerStream Corporation

Stephen E. Coran
Rudolfo L. Baca
Jonathan E. Allen
Rini Coran, PC
1615 L Street, NW, Suite 1325
Washington, DC 20036
Counsel to Speedus Corp. and Netfree US, LLC

Louis Tomasetti
Commnet Wireless, LLC
400 Northridge Road, Suite 130
Atlanta, GA 30350

David J. Kaufman
Brown Nietert & Kaufman, Chartered
1301 Connecticut Ave., NW, Suite 450
Washington, DC 20036
Counsel to Commnet Wireless, LLC

Jennifer McCarthy
NextWave Broadband Inc.
12670 High Bluff Drive
San Diego, CA 92130

Russell D. Lukas
Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Boulevard, Suite 1500
McLean, VA 22102
Counsel to McElroy Electronic Corporation

George E. Kilguss
TowerStream Corporation
Tech 2 Plaza
55 Hammarlund Way
Middletown, RI 02842

Shant S. Hovnanian
Speedus Corp., Managing Member of
NetfreeUS, LLC
9 Desbrosses Street, Suite 402
New York, NY 10013

And by electronic mail to:

Fred Campbell
Joel Taubenblatt
Cathleen Massey
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 22042

A handwritten signature in black ink, appearing to read "Patrick J. Fallon", with a long horizontal flourish extending to the right.